

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TENNESSEE**

JONES, ET AL.

Plaintiffs,

v.

Varsity Brands, LLC, ET AL.,

Defendants.

Case No. 2:20-cv-02892-SHL-tmp

**DEFENDANTS' UNOPPOSED MOTION FOR LEAVE TO FILE REPLIES IN SUPPORT
OF SUMMARY JUDGMENT IN EXCESS OF PAGE LIMITATIONS**

Defendants¹ respectfully move the Court under Local Rule 56.1 for leave to file reply briefs in support of their motion for summary judgment in excess of the page limits set by the Local Rules. The Court's scheduling order sets October 13, 2023, as the deadline for those replies. Defendants seek permission to allocate a total of fifty (50) pages across their reply briefs as Defendants deem necessary. Good cause exists for this request given the complexity of issues material to Defendants' motion, the number of arguments raised in Plaintiffs' opposition submissions, and Defendants' intention of structuring their reply briefs to present their arguments in the most efficient manner possible. Plaintiffs do not oppose Defendants' request.

ARGUMENT

On July 11, 2023, the Court issued an order setting page allowances for Defendants' anticipated motion for summary judgment and Plaintiffs' response. *See* ECF No. 465. Given the need to present arguments impacting all Defendants along with others impacting certain

¹ The seven Defendants in this case include Varsity Spirit, LLC, Varsity Brands, LLC, Varsity Spirit Fashions & Supplies, LLC, Bain Capital Private Equity, Charlesbank Capital Partners, LLC, U.S. All Star Federation, Inc., and Jeff Webb.

individual Defendants, Defendants proposed—and the Court allowed—the filing of five memoranda of law: (1) a joint memorandum filed on behalf of all seven Defendants, (2) a memorandum filed by Bain, (3) a memorandum filed by Charlesbank, (4) a memorandum filed by USASF, and (5) a memorandum filed by Webb. The Court granted permission to allocate one hundred (100) pages of legal memoranda and fifty (50) pages of statements of material fact across the proposed filings as Defendants deemed necessary. The Court granted Plaintiffs permission to file “Responses of equal total length, allocated as determined necessary by Plaintiffs.” *Id.* at PageID 18263.

Defendants filed their summary judgment motion and five memoranda of law on July 28, 2023. *See* ECF No. 466. Consistent with their intention of presenting the material facts and arguments to the Court most efficiently, Defendants filed a single forty-five (45) page joint statement of material fact. Defendants allocated sixty (60) pages to their joint memorandum of law. Bain and Charlesbank each filed six (6) page memorandum of law and USASF and Webb each filed (14) page briefs. *See* ECF Nos. 467-473.

Plaintiffs filed their opposition to Defendants’ summary judgment motion on September 15, 2023. *See* ECF No. 477-485. Plaintiffs filed a ninety (90) page response to Defendants’ joint statement of material fact, a ten (10) page appendix with evidentiary objections, a forty-nine (49) page statement of additional material fact, a fifty-six (56) page memorandum of law responding to Defendants’ joint brief,² a nineteen (19) page memorandum of law responding to Bain and Charlesbank’s briefs, a seventeen (17) page memorandum of law responding to USASF’s brief, and a seven (7) page memorandum of law responding to Webb’s brief. In total, Plaintiffs filed

² Plaintiffs filed a corrected version of their response to Defendants’ joint brief on September 20, 2023. *See* ECF No. 488.

one hundred and thirty-nine (139) pages of statements of fact³ and ninety-nine (99) pages of memoranda of law, not counting their ten (10) pages of evidentiary objections.

“Without prior Court approval, a reply by a moving party shall not exceed 7 pages.” LR 56.1(c). Were each of the seven moving Defendant to file their own reply brief, the Local Rules would allow a total of forty nine (49) pages. Consistent with their effort at presenting the relevant issues to the Court most efficiently, Defendants instead seek permission to allocate a total of fifty (50) pages as Defendants deem necessary across a lesser number of reply briefs. As with their opening briefs, Defendants anticipate filing a joint memorandum addressing Plaintiffs’ arguments applicable to all Defendants, along with shorter briefs addressing issues relevant to individual Defendants.

Good cause exists to permit Defendants to allocate their requested pages across the reply briefs. Flexibility in allocating pages across these briefs will allow Defendants to present necessary responses to Plaintiffs’ opposition submissions in the most efficient manner possible. This is a complex case in which Plaintiffs assert six causes of action under the laws of the United States and approximately thirty (30) states, seeking damages and equitable relief relating to the indirect purchases of a myriad of products and services in three different antitrust product markets and five different antitrust geographic markets (for a total of eleven product/geographic market pairs). Plaintiffs’ response briefs raise a voluminous number of arguments regarding, among other issues, the propriety of their proposed markets, the alleged existence of anticompetitive conduct and harm, the named plaintiffs’ standing to pursue claims despite not having made indirect purchases in all proposed markets, and the validity of claims asserted against entities and an individual who had no direct participation in the alleged conduct and

³ Defendants also intend to respond to Plaintiffs’ statements of fact.

markets. The pages requested by Defendants are necessary to fully and adequately reply to Plaintiffs' opposition briefs, and permission to allocate those pages across the briefs will allow Defendants to present their arguments in the most efficient manner possible. Plaintiffs do not oppose Defendants' request.

CONCLUSION

For the reasons set out above, Defendants respectfully request that the Court issue an order permitting Defendants to file a total of fifty (50) pages of legal memoranda in reply to Plaintiffs' opposition to Defendants' motion for summary judgment, with permission to allocate those pages across Defendants' reply briefs as Defendants deem necessary.

Dated: September 29, 2023

Respectfully submitted,

s/ Matthew S. Mulqueen

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CERTIFICATE OF CONSULTATION UNDER LOCAL RULE 7.2(a)(1)(B)

I hereby certify that on September 25, 2023, I notified Plaintiffs' counsel via email that Defendants intended to file a motion seeking permission to allocate a total of fifty pages across their reply briefs in support of summary judgment. Plaintiffs indicated on September 28, 2023, that they would not oppose Defendants' request.

s/ Matthew S. Mulqueen
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